

VZCZCXRO0444

RR RUEHAG RUEHAST RUEHDA RUEHDF RUEHFL RUEHHM RUEHIK RUEHKW RUEHLA
RUEHLN RUEHLZ RUEHMA RUEHPB RUEHPOD RUEHRN RUEHROV RUEHSR RUEHTM
RUEHVK RUEHYG
DE RUEHBS #1686/01 3051600
ZNR UUUUU ZZH
R 311600Z OCT 08
FM USEU BRUSSELS
TO RUEHC/SECSTATE WASHDC
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUEHZN/ENVIRONMENT SCIENCE AND TECHNOLOGY COLLECTIVE
RUCNMUC/EU CANDIDATE STATES COLLECTIVE
RUCNMEU/EU INTEREST COLLECTIVE
RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHSS/OECD POSTS COLLECTIVE
RUEHBJ/AMEMBASSY BEIJING
RUEHBR/AMEMBASSY BRASILIA
RUEHBU/AMEMBASSY BUENOS AIRES
RUEHBY/AMEMBASSY CANBERRA
RUEHJA/AMEMBASSY JAKARTA
RUEHME/AMEMBASSY MEXICO
RUEHMO/AMEMBASSY MOSCOW
RUEHOT/AMEMBASSY OTTAWA
RUEHSA/AMEMBASSY PRETORIA
RUEHUL/AMEMBASSY SEOUL
RUEHKO/AMEMBASSY TOKYO
RUEHWL/AMEMBASSY WELLINGTON

UNCLAS SECTION 01 OF 04 BRUSSELS 001686

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: [EAIR](#) [ECON](#) [EIND](#) [ENRG](#) [EUN](#) [EWWT](#) [KGHG](#) [SENV](#) [TPHY](#)

TRGY, TSPL

SUBJECT: STATE OF PLAY OF EU'S CLIMATE AND ENERGY PACKAGE

REF: A. BRUSSELS 1629

[1](#)B. BRUSSELS 1439

[1](#)1. (SBU) Summary: The European Union, headed by the French Presidency, is trying to finalize a Climate and Energy Package before the end of the year. The Package includes directives on Europe's cap and trade system and the methods to meet Europe's "20-20-20 in 2020 goals" (20% emissions cut as compared to 1990, 20% use of renewable energy, and a 20% improvement in energy efficiency by 2020). However, divisions among the Member States, led by Italy and Poland, and a gap between the European Parliament and Council threaten to derail this effort. At this moment, it is unlikely the EU will be able to overcome the divisions to complete the Package in December, but we cannot rule out a last minute deal, something for which the EU is well known. The EU places a high priority on the passage of the Package, because it will be used as the EU position in UN climate negotiations in Poznan and Copenhagen. While the climate negotiation aspects will have the most potential to influence U.S. policy, EU decisions to develop a carbon border tax and to develop strict biofuels sustainability requirements will also affect U.S. interests and global industry. End Summary.

[1](#)2. (SBU) The European Union is in the final stages of negotiating the so-called "Climate and Energy (C&E) Package." The European Commission on January 23, 2008, headed by the Directorates General for Environment (DG ENV) and Energy and Transport (DG TREN), submitted the C&E Package, consisting of three separate legislative proposals, described below. The C&E Package is separate but parallel to the EU's 3rd Energy Package, released in September, 2007, which focuses on energy security and the internal electricity and gas markets of the EU. France, current holder of the rotating EU Presidency, has made the C&E Package a priority and is pressing to complete negotiations by year-end, before the Presidency shifts to the Czech Republic in January, 2009. The legislative status of the package is described in paragraph 5 below.

13. (SBU) The C&E Package comprises the four elements described below. Note that the first element is a draft "Decision", which, once adopted, will be directly applicable and binding to the Member States. As the Decision will have direct applicability, it will supersede member state law and will not have to be transposed by member states into national legislation. The other three elements, all Directives, require Member States to enact national laws that accomplish the goals set out in the Directives. Member States are free--in principle--to adopt the national measures they see fit to fulfill the requirements of the Directive.

-- The Burden Sharing Decision, penned by DG ENV, lays out the amounts Member States will have to reduce their greenhouse gas (GHG) emissions to meet the EU's 20% emission reduction commitments by 2020. The proposal dictates by what percentage each Member State must reduce, or in some cases, is allowed to increase, its emissions by 2020 as compared to 2005.

-- The Emissions Trading System (ETS) Revision Directive, also drafted by DG ENV, is intended to improve and extend the EU's GHG cap and trade system for reducing GHG emissions. The ETS Revision Directive would take effect on January 1, 2013, the end of the current iteration of the ETS, and seeks to correct excessive allowances allotted to some Member States and some sectors, which took place based on projections and lack of verified emissions data.

-- The Renewables Directive, written by DG TREN, promotes the use of energy from renewable sources and addresses the EU's

BRUSSELS 00001686 002 OF 004

goal to achieve a 20% share of renewable energy sources by 2020. This Directive dictates the percentage of renewable energy each Member State must have in its energy mix and a 10% binding minimum target for alternative fuels in transport (biofuels, electric cars, hydrogen fuel cells, etc) by 2020.

-- The Carbon Capture and Storage (CCS) Directive was also led by DG TREN and supports the early demonstration of CCS to help reduce emissions from coal-generated electricity. The Commission, recognizing that coal will continue to play an important role in European and global energy production, is seeking to establish the regulatory framework for the implementation of up to 12 CCS demonstration projects.

14. (SBU) The standard timeline for such a legislative package is 18-24 months from the time of submission. The legislative process typically follows this pattern: 1) the Commission begins the process by proposing legislation; 2) the Parliament then adopts amendments in a first reading; 3) Member States vote on a 'Common Position' in the Council; 4) Parliament subsequently amends the Council Common Position in a second reading; and finally 5) Parliament and Council negotiate a compromise during a conciliation round. At any point after the Parliament or the Council make changes to the original Commission text, the Commission then has the right to accept or reject those amendments and then can put forward a revised proposal to the Parliament. The decision-making process can be shortened to as much as a single Parliamentary reading, if Council and Parliament agree beforehand on a set of compromise amendments. As France targeted the C&E Package as a Presidency priority, it intended to make use of this possibility to fast-track adoption of the legislation, with a goal of completion (at least informally) in December 2008, less than 12 months after the Commission proposal. By comparison, the 3rd Energy Package, submitted in September, 2007, and considered to be less contentious, is not set for adoption before April, 2009. The French C&E Package timeline is exceptionally ambitious, and the disagreements among Member States, as well as between Member States and the Parliament, are such that agreement by December could be very difficult.

15. (SBU) Most aspects of the C&E Package are contentious, exposing differences among the Commission, Council and European Parliament, and in all cases, within these EU institutions. Currently, the balance of power is teetering between the Parliament and the Council. Parliamentary Committees finished amending the drafts in October with a more strongly worded text, particularly as applied to the ETS Revisions and the Renewables Directive (see reftels for details on the amendments). Many of these changes are opposed by the Commission and are unlikely to be acceptable to several Member States.

-- The Parliament, having already approved its amendments in the Environment (ENVI) and Industry (ITRE) Committees, has set forth its negotiating position. In almost all cases, the Parliament added more stringent requirements to the Commission proposals, including tightening regulations on biofuels sustainability and working to expand further the reach of sectors covered under ETS. However, these amendments were not unanimously supported, with the center-right EPP-ED party voting against the ETS amendments because of worries that the European economy will be damaged.

-- The Council is taking a more moderate stance, but internal divisions are wide-reaching. Environmentally-focused countries such as Sweden prefer the more stringent requirements. Meanwhile, Italy and Poland are leading a group of 11 countries in an effort to reduce the strength of the legislation--claiming damage to their economies if forced to undertake these commitments. The 11 countries--including

BRUSSELS 00001686 003 OF 004

the three Baltic States, Slovakia, Hungary, Romania, Bulgaria, Cyprus and the Czech Republic--have more than enough votes to form a blocking minority. USEU EconOffs also have heard from various sources that Germany may be included in this group, but that Chancellor Merkel does not want to oppose President Sarkozy publicly. Most of their complaints target the magnitude of the emissions cuts and the allocation of ETS credits, though there are country-specific concerns with pieces of each of the four proposals.

-- The Commission is standing behind its original proposals while remaining open to compromise. Some contacts indicate that at this point everything is out of their hands. Commission officials continue to press in Parliament and Council the merits of the original proposals, but do not seem to be having an impact. The Commission has used several arguments, including current technological realities, financial implications of decisions, and possible breaches of WTO rules, to try to convince MEPs and Member States.

16. (SBU) The European Council (heads of state and government of the 27 EU Member States) will meet on December 11-12, the date by which the French Presidency is looking for a political agreement among the member states. France originally hoped to use this meeting to develop a text to submit to the full Parliament for a vote, with the belief that Parliament would not have much recourse after the 27 Member States came to a unanimous agreement. However, Parliament, fearing just this eventuality, made a tactical move and advanced its Plenary vote on the proposal from the week after the Council, ahead to December 3-4. This will allow the full Parliament to vote on its text, which it will then pass to the Council. In this new timing, the Council will be required to consider the text as passed by Parliament, which likely will look similar to the texts as passed by the Parliamentary Committees. Member States such as Italy and Poland oppose the text from Parliament, and Parliament's decision to move forward its Plenary vote thus makes the possibility of a 1st Reading agreement much less likely.

17. (SBU) While most of the decisions taken by the EU on the C&E Package are internally focused, the entire package is expected to form the basis for the EU's negotiating position

in the UN climate negotiations in Poznan in December this year and Copenhagen in December 2009. Across the board, the EU has inserted language referring to the existence or absence of a global climate agreement. Though no concrete decision has been taken on how to address carbon leakage (the departure of carbon intensive industries to countries with less stringent environmental laws), the EU has not eliminated the idea of a carbon border tax (an import tariff applied to products developed in countries with weaker environmental laws). At this point, cooler heads appear to have prevailed, calling on the EU to wait until after UN climate negotiations have concluded to determine if a border tax is necessary. Specifically on ETS, the EU seeks a global network of cap and trade systems, with ETS as the cornerstone. Additionally, both Council and Parliament have asked that all developed countries undertake a similar commitment, which include 25-40% GHG reductions by 2020 and anywhere from 60-95% reductions by 2050.

18. (SBU) Comment: What takes place over the next few months has the potential to influence directly the United States. Beyond developing what will be the negotiating position for Poznan and Copenhagen, efforts to limit the effects of carbon leakage and to develop biofuels sustainability criteria are decisions that could adversely affect companies from the United States and the rest of the world. Here in Brussels, the next few months are considered crucial, and many have argued that if the EU fails to pass the C&E Package this

BRUSSELS 00001686 004 OF 004

year, the EU will be in a weaker position heading toward Copenhagen. Given the political differences and gaps among the Member States and between the Council and the Parliament, there is a strong possibility that an agreement will fall to 2009. That said, we cannot eliminate the possibility of a last-minute deal--the EU is well known for just that--but at this moment, the prospects look better for a resolution sometime in 2009. The EU has the legal authority to pass individual pieces of the legislation without passing all of them, but the French Presidency has made clear it considers the four a single package and that they either all pass together or none of them pass. Looking forward to Copenhagen, it is likely the EU's goal of 20% emissions cuts will remain, but many of the supporting details the EU plans to bring to the table could change dependent on the outcome of the upcoming discussions. End Comment.

SILVERBERG

.